

Appl. No.: 10/765,337
Amdt. dated 01/04/2006
Reply to Official Action of October 5, 2005

REMARKS/ARGUMENTS

Applicants initially appreciate the thorough examination of the present application, as evidenced by the first Official Action. Applicants also appreciate the indication in the first Official Action that Claims 16-21 and 39-42 are allowed, and that Claim 11 is allowable. However, the first Official Action rejects the remaining claims, namely Claims 1-10, 12-15 and 22-38, under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2005/0083181 to Jalkanen et al. in view of U.S. Patent Application Publication No. 2004/0145564 to Duarte et al., alone or in further view of either U.S. Patent Application Publication No. 2004/0181703 to Lilja et al., or U.S. Patent Application Publication No. 2003/0100295 to Sakai et al.

Notably, as the Jalkanen and Lilja applications published on April 21, 2005 and September 16, 2004, respectively, both after the filing date of the present application (i.e., January 26, 2004). Pursuant to 35 U.S.C. § 103(c), for applications filed after November 29, 1999, such as the present application, references that qualify as prior art under 35 U.S.C. § 102(e), (f) or (g) cannot properly be cited to support an obviousness rejection if the subject matter of the reference and the pending application were commonly owned at the time of the invention. In the instant case, the subject matter of both of the Jalkanen and Lilja applications were commonly owned at the time of the invention of the subject matter of the present application. In this regard, all of the present application and the Jalkanen and Lilja applications are assigned to Nokia Corporation as evidenced by (a) the assignment for the present application recorded on January 26, 2004 at Reel 014936, Frame 0846, (b) the assignment for the Jalkanen application recorded on October 16, 2003 at Reel 014618, Frame 0001, and (c) the assignment for the Lilja application recorded on May 24, 2004 at Reel 015358, Frame 0897. As such, neither the Jalkanen application nor the Lilja application can properly be cited in support of an obviousness rejection of the claimed invention under 35 U.S.C. § 103.

As both the Jalkanen and Lilja applications are disqualified as prior art to support a rejection of the claimed invention under 35 U.S.C. § 103, Applicants respectfully submit that the rejections of Claims 1-10, 12-15 and 22-38, under 35 U.S.C. § 103(a) as being unpatentable over the Jalkanen application in view of the Duarte application, alone or in further view of either the

Appl. No.: 10/765,337
Amdt. dated 01/04/2006
Reply to Official Action of October 5, 2005

Lilja application or the Sakai application, are overcome. In view of the foregoing remarks, Applicants respectfully request reconsideration and allowance of all of the pending claims of the present application.

Appl. No.: 10/765,337
Amdt. dated 01/04/2006
Reply to Official Action of October 5, 2005

CONCLUSION

In view of the remarks presented above, Applicants respectfully submit that all of the claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



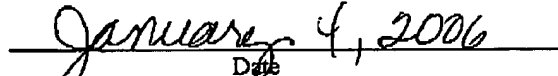
Andrew T. Spence
Registration No. 45,699

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the US Patent and Trademark Office at Fax No. (571) 273-8200 on the date shown below.


Sarah B. Simmons


Date